

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 21, 2008

D053414 Wynberg v. Superior Court of San Diego County/Duetsche Bank

The petition for a writ of mandate and request for stay has been read and considered by Justices Nares, Haller and Aaron. The petition involves proceedings in a limited civil case. "The appellate division of the superior court has original jurisdiction in proceedings for extraordinary relief in the nature of mandamus...directed to the superior court in causes subject to its appellate jurisdiction." (Cal. Const., art. VI, § 10.) Because an appeal in a limited civil case lies with the appellate division (Code Civ. Proc., § 904.2), petitioner should request relief from the appellate division of superior court, not this court. The petition is denied.

D051060 People v. Ramsay

The judgment is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., Aaron, J.

D051783 People v. Welsh

The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

D048766 People v. Andrews

The sentence is modified to vacate the upper terms imposed for counts 2, 3, 4, 5, 6, 8 and 9 and to impose the middle terms for those counts in accordance with the views expressed in this opinion. As so modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modifications and to forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

D052602 In re Bryanna H., a Juvenile

The appeal is dismissed. Nares, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D051221 People v. Perez

The judgment of the trial court is affirmed. CERTIFIED FOR PUBLICATION. Aaron, J.; We Concur: Benke, Acting P.J., Huffman, J.

D053344 Bakker v. Superior Court of San Diego County/Brown et al.

The petition for writ of certiorari and/or mandamus and request for stay have been read and considered by Justices Nares, Haller and Aaron. The petition is denied.

D052135 In re Strickland on Habeas Corpus

The petition is denied.

D053085 In re Singleton on Habeas Corpus

The petition is denied.

D053326 In re Morien on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 22, 2008

D052392 Jimsair Aviation Services, Inc. v. San Diego Regional Airport Authority

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

D050922 Pavey v. Farmers Insurance Exchange

The judgment is reversed. Farmers is awarded costs on appeal. O'Rourke, J.;
We Concur: Nares, Acting P.J., Irion, J.

D051112 Gilday v. Fegan et al.

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., O'Rourke, J.

D049359 People v. Blanco

The matter is remanded to the trial court for resentencing. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D049259 Robles v. Autozone, Inc.

The JNOV and the order awarding costs are affirmed. Costs on appeal are awarded to Robles. Huffman, Acting P.J.; We Concur: Haller, J., McDonald, J.

D051660 Lefkowitz v. Community Bancorp Inc., et al.

The order denying the motion to strike or any award of attorney fees and costs is reversed with directions to allow further appropriate proceedings in accordance with the views expressed in this opinion. Each party to bear its own costs. Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.

D051410 Lopez et al. v. Imperial County Sheriff's Office et al.

The judgment is affirmed. Each party is to bear its own costs on appeal. CERTIFIED FOR PUBLICATION. O'Rourke, J.; We Concur: McDonald, Acting P.J., Irion, J.

D052260 People v. Ladd

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

D053119 In re Vaughn on Habeas Corpus

The petition is denied.

D053350 Alsayad v. Superior Court of San Diego County/People

The petition is denied.

D052947 In re Yellen on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 22, 2008 (Continued)

D053298 Hill v. Superior Court of Imperial County/Schwarzenegger

The petition is denied.

D050491 Brown v. Winn

The judgment and order denying Winn's new trial motion are affirmed. Plaintiff shall recover his costs on appeal. Nares, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D049331 Brinker Restaurant Corporation et al. v. The Superior Court of San Diego County/Hohnbaum et al.

Let a peremptory writ of mandate issue directing the superior court to vacate its July 6, 2006 class certification order and enter a new order denying with prejudice certification of plaintiffs' rest, meal period, and off-the-clock subclasses. The stay issued on December 7, 2006, is vacated. Costs are awarded to Brinker. CERTIFIED FOR PUBLICATION. Nares, J.; We Concur: Haller, J., O'Rourke, J.

D050907 People v. Adkins

The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

D050466 People v. Rubino

The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., Irion, J.

D053276 Dube v. Call

Because appellant did not timely pay the filing fee, the appeal is dismissed. (Cal. Rules of Court, rule 8.100(c)(3).)

D053264 Rosa G. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Rosa G. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is DISMISSED.

D053019 State Farm Mutual Automobile Insurance Company/The Superior Court of San Diego County/Slocum

The petition for writ of mandate and request for judicial notice have been read and considered by Justices Nares, Haller, and McDonald. The request for judicial notice is granted. The petition is denied.

D053086 In re Adams on Habeas Corpus

The petition is denied.

D053087 In re Jenkins on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 23, 2008

D052122 In re Anthony K. et al., Juveniles

Order affirmed. McIntyre, J.; We Concur: McConnell, P.J., O'Rourke, J.

D051973 People v. Dyson

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Nares, J.

D052167 In re Anthony S., a Juvenile

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Aaron, J.

D052765 In re Erick S., a Juvenile

The appeal is dismissed. McIntyre, J.; We Concur: Haller, Acting P.J., Irion, J.

D052716 In re Kenneth S., a Juvenile

The appeal is dismissed. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D051001 People v. Alvarez

The judgment is affirmed. McDonald, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D052219 Kirlin Inc., et al. v. BSG Holdings Subsidiary Inc., et al.

Upon written stipulation filed by the parties to the appeal, the appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2).) Each party to bear own costs on appeal.

D052029 Schrock v. Schrock

Pursuant to California Rules of Court, rule 8.140, the appeal filed November 05, 2007, is DISMISSED for appellant's failure to timely designate the record (Cal. Rules of Court, rule 8.121(a)), and because appellant did not timely deposit costs for preparing the record on appeal (Cal. Rules of Court, rules 8.122(c), 8.130(b), 8.140).

D053128 In re Beckner on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

July 24, 2008

D052253 People v. Ellis

The judgment is affirmed. Irion, J.; We Concur: Huffman, Acting P.J., Nares, J.

D051343 People v. Wilkerson

D052739 In re Wilkerson on Habeas Corpus

The pending petition for writ of habeas corpus, in re Barron D. Wilkerson, D052739, is consolidated with the pending appeal People v. Barron D. Wilkerson, D051343, for disposition.

D051343 People v. Wilkerson

D052739 In re Wilkerson on Habeas Corpus

The judgment is affirmed. The petition is denied. Aaron, J.; We Concur: McConnell, P.J., Haller, J.

D052139 People v. Higuera

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D050595 City of El Centro v. Menvielle

The postjudgment order granting Respondents' motion for litigation expenses is reversed with directions to enter a different order denying the motion. Each party shall bear its own costs on appeal. Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.

D050571 People v. Armenta

The judgment is affirmed as to the second degree murder conviction and the 15-years-to-life sentence for that conviction. The judgment is reversed as to the personal knife use enhancement and the accompanying one-year sentence. The prosecution is entitled to retry this enhancement. If the prosecution chooses not to retry the knife use enhancement, an amended abstract of judgment removing the one-year determinate term shall be sent to the Department of Corrections and Rehabilitation. Haller, J.; We Concur: McConnell, P.J., Nares, J.

D050285 People v. Roman

The judgment is reversed. O'Rourke, J.; We Concur: Huffman, Acting, P.J., McDonald, J.

D053114 In re Lopez on Habeas Corpus

The petition is denied.

D053323 In re Brown on Habeas Corpus

The petition is denied.

D053206 Jaime P. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

No timely petition for writ relief has been filed. The notice of intent is deemed to be abandoned. The case is DISMISSED.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 24, 2008 (Continued)

D053116 In re Wright on Habeas Corpus

The petition is denied.

D053322 In re Brown on Habeas Corpus

The petition is denied.

D053141 In re Love on Habeas Corpus

The petition is denied.

D051558 In re Max M., a Juvenile

The request for publication of the opinion is denied.

D053320 In re Brown on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 25, 2008

D051175 Attal v. Taylor

The order is affirmed. John is entitled to recover his costs on appeal. McIntyre, J.;
We Concur: Haller, Acting P.J., McDonald, J.

D049206 In re Natural Gas Anti-Trust Cases

Upon written stipulation filed by the parties to the appeal by California Department of Water Resources, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal. (Cal. Rules of Court, rule 8.244(c)(2).)